

EXHIBIT 23

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 -----)
5)
6 IN RE: NATIONAL PRESCRIPTION) MDL No. 2804
7 OPIATE LITIGATION)
8)
9 -----) Case No. 1:17-MD-2804
10)
11 THIS DOCUMENT RELATES TO:)
12)
13 Case Track 8) Hon Dan A. Polster
14)
15 -----)

16
17 VIDEOTAPED DEPOSITION OF CHRIS HEWELL
18 FRIDAY, NOVEMBER 4, 2022

19 - - -
20
21 HIGHLY CONFIDENTIAL - SUBJECTIVE TO FURTHER
22 CONFIDENTIALITY REVIEW

23 - - -
24
25 Remote videotaped deposition of CHRIS
26 HEWELL, commencing at 9:00 a.m., on the above date,
27 before Juliana F. Zajicek, Registered Professional
28 Reporter, Certified Shorthand Reporter and Certified
29 Realtime Reporter.

30 - - -
31
32 GOLKOW LITIGATION SERVICES
33 877.370.3377 ph | 917.591.5672 fax
34 Deps@golkow.com

1 A P P E A R A N C E S :
2 (All Parties Appeared Remotely)

3 ON BEHALF OF THE PLAINTIFF:

4 NAPOLI SHKOLNIK, PLLC
5 270 Munoz Rivera Avenue, Suite 201
6 Hato Rey, Puerto Rico 00918
7 833-271-4502
8 SALVATORE C. BADALA, ESQ.
9 SBadala@NapoliLaw.com;
10 JODI KLOCKENGA, ESQ.
11 JKlockenga@NapoliLaw.com;
12 MARIA FLEMING, ESQ.
13 MFleming@NapoliLaw.com

14
15 SIMMONS HANLY CONROY LLC
16 112 Madison Avenue, 7th floor
17 New York, NY 10016
18 212-784-6400
19 BY: LAURA F. FITZPATRICK, ESQ.
20 lfitzpatrick@simmonsfirm.com
21 ELLYN HURD, ESQ.
22 ehurd@simmonsfirm.com

23 ON BEHALF OF THE KROGER COMPANY:

24 BOWLES RICE LLP
 600 Quarrier Street
 Charleston, West Virginia 25301
 304-347-1701
 BY: MAURI LEVY, ESQ.
 maurilevy@bowlesrice.com

1 A P P E A R A N C E S :
2 (All Parties Appeared Remotely)

3 ON BEHALF OF PUBLIX SUPER MARKETS, INC.:

4 BARNES & THORNBURG LLP
5 11 South Meridian Street
6 Indianapolis, Indiana 46204
7 317-231-7501
8 BY: MEREDITH THORNBURGH WHITE, ESQ.
9 meredith.white@btlaw.com
10 MONICA R. BROWNEWELL SMITH, ESQ.
11 mbrownewell@btlaw.com
12 KARA KAPKE, ESQ.
13 kara.kapke@btlaw.com

14 BARNES & THORNBURG LLP
15 2121 North Pearl Street, Suite 700
16 Dallas, Texas 75201
17 214-258-4188
18 BY: TIM HUDSON, ESQ.
19 tim.hudson@btlaw.com

20
21
22 ALSO PRESENT:

23 BILL HAMMOND, Senior Director,
24 Regulatory Legal and Litigation at
25 Publix Super Markets

26 JONATHAN JAFFE, Consultant

27 GINA VELDMAN, Trial/Exhibit Technician

28 THE VIDEOGRAPHER:

29 JAMES VONWIEGEN
30 Golkow Litigation Services

1 I N D E X

2

3 WITNESS: PAGE:

4 CHRIS HEWELL

5 EXAM BY MR. BADALA..... 8

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9 E X H I B I T S

10 CHRIS HEWELL EXHIBIT MARKED FOR ID

11 No. 1 Publix Super Markets, Inc. 34
12 Supplemental Objections and
13 Responses to Plaintiff's
Interrogatories to Chain Pharmacy
Defendants

14 No. 2 E-mail chain dated 10/1/2019; 109
PUBLIX-MDLT8-00077173 - 188

15 No. 3 E-mail chain dated 7/17/2015; 186
16 PUBLIX-MDLT8-00067262 - 307

17 No. 4 E-mail chain dated 9/23/2015; 200
PUBLIX-MDLT8-00143498 - 514

18 No. 5 Report of Investigation, Date 215
19 Prepared 07-21-2015;
DEA-T711CC-00010761 - 775

20 No. 6 Plea Agreement, USA vs. The Purdue 243
21 Frederick Company, Case No.
22 1:07CR29; PLLTF_2804_000252605 -
805

23 No. 7 E-mail chain dated 1/12/2009; 247
PPLPC004000187516 - 519

24

1	E X H I B I T S (Continued)		
2	CHRIS HEWELL EXHIBIT		MARKED FOR ID
3	No. 8	E-mail chain dated 5/1/2008; PUBLIX-MDLT8-00073491 - 492	257
4	No. 9	E-mail dated 5/23/2008 w/attachment; PUBLIX-MDLT8-00073500 - 503	261
5	No. 10	McKesson document titled "Understand ARCOS Data" with handwritten notes; PUBLIX-MDLT8-00147213 - 242	264
6	No. 11	Report of Investigation, Date Prepared 07-21-2015; DEA-T711CC-00010761 - 775	266
7	No. 12	E-mail chain dated 9/4/2015; PUBLIX-MDLT8-00147625 - 627	273
8	No. 13	Report of Investigation, Date Prepared 03-17-2021; DEA-T711CC-00010900 - 905	277
9	No. 14	E-mail chain dated 6/8/2020 w/attachment; ABDCMDL10851380 - 392	281
10	No. 15	E-mail dated 9/19/2012 w/attachment; PUBLIX-MDLT8-00065917 - 944	285
11	No. 16	E-mail chain dated 03/28/2016; Anda_Opioids_MDL_0000344122 - 123	296
12	No. 17	E-mail chain dated 04/04/2016; Anda_Opioids_MDL_0000343756 - 757	301
13	No. 18	E-mail chain dated 05/03/2016; Anda_Opioids_MDL_0000343326 - 327	303
14	No. 19	E-mail chain dated 5/1/2008; PUBLIX-MDLT8-00073491 - 492	307
15			

1	E X H I B I T S (Continued)		
2	CHRIS HEWELL EXHIBIT		MARKED FOR ID
3	No. 20	E-mail chain dated 8/11/2015; Anda_Opioids_MDL_0000335480 - 482	308
4	No. 21	E-mail chain dated 5/11/2016; Anda_Opioids_MDL_0000296241 - 244	311
5	No. 22	Plaintiff's Demonstrative - Elmo notes	312
6	No. 23	Plaintiff's Demonstrative - Exhibits 1-21	314
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1 THE VIDEOGRAPHER: We are now on the record. My
2 names is James Vonwiegen. I am a videographer for
3 Golkow Litigation Services.

4 Today's date is November 4th, 2022, and
5 the time is 9:00 a.m.

6 This remote video deposition is being held
7 In the Matter of Opioid Litigation, Track 8.

8 The deponent is Christopher Hewell.

9 All parties to the deposition are
10 appearing remotely and have agreed to the witness
11 being sworn in remotely.

12 Due to the nature of remote reporting,
13 please pause briefly before speaking to ensure all
14 parties are heard completely.

15 Counsel will be noted on the stenographic
16 record.

17 The court reporter is Juliana Zajicek, and
18 will now swear in the witness.

19 (WHEREUPON, the witness was duly
20 sworn.)

21 CHRIS HEWELL,
22 called as a witness herein, having been first duly
23 sworn, was examined and testified as follows:

24 EXAMINATION

1 but at one time you said C-IIs.

2 A. I was specifically referring to our CSOS
3 program.

4 Q. But from 2012 to 2018, when the pharmacy
5 supervisors were only reviewing orders of interest or
6 flagged orders, were those only for C-IIs or was that
7 C-IIs and C-IIIs?

8 A. From 2012 until 2016, there would have
9 only been for Schedule III through V because we
10 weren't shipping Schedule II controlled substances at
11 that time. And then in 2016 it would have been for
12 Schedule II through V items of interest.

13 Q. Now, before 2012, who was reviewing the
14 controlled substance orders?

15 A. Those orders re -- were reviewed in our
16 systems.

17 Q. Okay. What system?

18 A. Our Publix inventory management system.

19 Q. PIMS is the other word?

20 A. Yes.

21 Q. So there wasn't an actual pharmacy
22 supervisor or a diversion person who was reviewing
23 flagged controlled substance orders prior to 2012?

24 MS. WHITE: Objection to form.

1 held back, was that reported to the DEA?

2 MS. WHITE: Objection to form.

3 BY THE WITNESS:

4 A. No.

5 BY MR. BADALA:

6 Q. Why not?

7 MS. WHITE: Objection to form.

8 BY THE WITNESS:

9 A. Since those orders weren't -- weren't
10 determined to be suspicious, if they weren't
11 determined to be suspicious, they weren't reported as
12 suspicious orders to the DEA.

13 BY MR. BADALA:

14 Q. So would the pharmacy supervisor review an
15 order of interest and determine if it was a suspicious
16 order?

17 A. Yes.

18 Q. And then if a pharmacy supervisor
19 determined that an order of interest was a suspicious
20 order, what would be the next step?

21 A. The next step would be, if they are in the
22 date range of 2012 to 2018, to notify the procurement
23 department that that order was suspicious.

24 Q. Who at procurement would get that

1 notification?

2 A. That would be me.

3 Q. Okay. How was that reported to you from
4 2012 to 2018?

5 MS. WHITE: Objection to form.

6 BY THE WITNESS:

7 A. Can you clarify what you mean, how it was
8 reported?

9 BY MR. BADALA:

10 Q. Sure.

11 Was it an e-mail, was it a spreadsheet,
12 was it a phone call? How did you get the suspicious
13 orders sent to you from the pharmacy supervisors?

14 MS. WHITE: Objection to form.

15 BY THE WITNESS:

16 A. The pharmacy supervisors would notify me
17 via e-mail, telephone. It really wasn't specified.

18 BY MR. BADALA:

19 Q. Okay. When you got those suspicious
20 orders, what did you do next?

21 MS. WHITE: Objection to form.

22 BY THE WITNESS:

23 A. If it were -- if a suspicious order was
24 reported to me, it was my responsibility to notify the

1 pharmacy warehouse and the DEA.

2 BY MR. BADALA:

3 Q. When you got that suspicious order, did
4 the pharmacy supervisors send you their due diligence
5 on the order?

6 MS. WHITE: Objection to form.

7 BY THE WITNESS:

8 A. If I were to receive a suspicious order,
9 they -- they could have sent me the in -- you know,
10 the initial rejected -- the -- the item level
11 rejection during that timeframe, 2012 to 2018.

12 BY MR. BADALA:

13 Q. Was there ever an instance where you
14 reviewed a suspicious order that was determined to be
15 a suspicious order and you decided that it was not a
16 suspicious order?

17 A. No.

18 Q. How many suspicious orders were reported
19 to you between 2012 and 2018?

20 A. No suspicious orders were reported to me
21 during that timeframe.

22 Q. Not one?

23 A. No.

24 Q. And how many pharmacies did Publix have at

1 the present Publix has reported at least one
2 suspicious order?

3 A. Yes.

4 Q. More than one?

5 A. Yes.

6 Q. So more than ten?

7 A. I don't -- I don't know. I'm not aware.

8 Q. So that never got you thinking that
9 something was wrong between 2012 and 2018 because
10 after 2018 Publix is reporting suspicious orders, but
11 2012 to 2018 there is not one suspicious order
12 reported, that didn't get you concerned?

13 A. No. We had a process. We followed our
14 process and we had nothing to report those years.

15 Q. Just because it was a process doesn't mean
16 that the process is working correctly, isn't that
17 right?

18 MS. WHITE: Objection to form.

19 BY THE WITNESS:

20 A. We had a process, we followed the process
21 and, again, I had nothing to report.

22 BY MR. BADALA:

23 Q. Just going back, let's go to this
24 suspicious order, I want to make sure we can just

1 outline that -- this pretty quickly, but Publix's SOM
2 system, you mentioned that they've changed over time.

3 Can you tell me what the systems were as
4 far back as you can remember, starting with the first?

5 A. Sure. We had our PIM system.

6 Q. What years was the PIM system, the Publix
7 SOM system?

8 A. That was 2006 to around -- the original
9 PIM system was around 2006 to around 2012.

10 Q. Okay. After PIMS, what was the next
11 system?

12 A. We had some enhancements in PIMS between
13 2012 and we used that from 2012 to 2016.

14 Q. Can I write down enhanced PIMS, is that
15 the right way to phrase it?

16 A. I am referring to it as enhanced PIMS.

17 Q. You said that was 2012 to what?

18 A. To 2016.

19 Q. Was there, like, a third-party system with
20 this enhanced PIMS or was it just actual enhancements
21 to PIMS?

22 A. It was -- there was no third-party
23 solution.

24 Q. Okay. What's the next system?

1 A. E-Supply Link.

2 Q. What years was that?

3 A. 2016 until about 2020.

4 Q. Is that a third-party vendor?

5 A. Yes.

6 Q. Okay. Next?

7 A. 2020 to present would be Order Insight.

8 Q. That's another third-party vendor?

9 A. Yes.

10 Q. Okay. Are we missing any?

11 A. No.

12 Q. What month did Order Insight go into
13 effect in 2020?

14 A. I don't recall. Again, that -- the
15 responsibility for suspicious order monitoring had
16 transitioned to our regulatory and compliance
17 department and it was piloted and ultimately rolled
18 out, I don't know what month that was.

19 Q. Why switch from E-Supply to Order Insight?

20 A. Order Insight provided us with some
21 additional functionality that we didn't have with
22 E-Supply Link.

23 Q. Which additional functionalities were
24 they?

1 A. Order Insight provides -- provides for
2 some additional scrutiny of orders in regards to
3 forecasted demand. It's -- you know, there is daily
4 thresholds, weekly thresholds, monthly thresholds on a
5 rolling cadence, so provided some additional
6 functionality there.

7 Q. Was Order Insight second half of 2020?

8 A. I don't know.

9 Q. Which systems were threshold-only based?

10 MS. WHITE: Objection to form.

11 BY THE WITNESS:

12 A. None of our systems were threshold-only
13 based, if we are talking about the entire suspicious
14 order monitoring system. These systems were one
15 component of our suspicious order monitoring process.

16 If we are talking about the individual
17 system itself, the enhancement PIM system utilized a
18 threshold.

19 BY MR. BADALA:

20 Q. And then we talked about this, but 2012 to
21 2018, no suspicious orders reported, right?

22 A. Correct.

23 Q. Did you have a file on your folder -- oh,
24 no, strike that, actually.

1 Q. Sure.

2 If a Publix pharmacy manager tells the
3 pharmacy -- sorry, strike that.

4 If an e-mail notification goes out to the
5 pharmacy, the Publix pharmacy, and tells a pharmacy
6 they are approaching their threshold, in 2015 could
7 that pharmacy go to another distributor, like an Anda,
8 an Amerisource or a McKesson and get an opioid order
9 from that distributor?

10 A. Potentially, but those orders would have
11 gone through a CSOS review process prior to being
12 approved.

13 Q. Do you know the company Anda?

14 A. Yes.

15 MS. WHITE: Objection to -- objection to form.

16 BY MR. BADALA:

17 Q. Does Publix do business with Anda related
18 to opioids?

19 A. No, not currently.

20 Q. Did they do business with Anda?

21 A. Yes, we did business with Anda.

22 Q. When did Publix stop doing opioid business
23 with Anda?

24 A. If I recall, around 2016, maybe '17.

1 is that right?

2 MS. WHITE: Object to form.

3 BY THE WITNESS:

4 A. Pharmacies could only get products from an
5 approved vendor, and depending on what timeframe and
6 what type of product, there could have been
7 restrictions.

8 BY MR. BADALA:

9 Q. Was there ever a time between 2006 and the
10 present where a Publix pharmacy could get opioids from
11 Anda as well as the Publix warehouse?

12 MS. WHITE: Objection to form.

13 BY THE WITNESS:

14 A. I believe during the time that we were
15 partnered with Anda, the opioids that we had stocked
16 at the pharmacy warehouse were minimal, since
17 hydrocodone, if I recall, had already been
18 rescheduled. So maybe some Schedule V opioids in
19 addition to opioids coming from Anda.

20 BY MR. BADALA:

21 Q. How were those orders placed from a Publix
22 pharmacy to a third party like a Cardinal, a McKesson,
23 or an Anda for opioids?

24 MS. WHITE: Objection to form.

1 BY THE WITNESS:

2 A. Can you be more specific about what type
3 of opioids?

4 BY MR. BADALA:

5 Q. Yeah. Well, how about this, what -- what
6 type of opioids did Anda, for example, supply to
7 Publix pharmacies?

8 A. Most of -- in the timeframe that we --
9 that we just referenced until -- you know, we -- we
10 did not purchase Schedule II drugs from Anda after the
11 2016, 2017 range, but for the most part the types of
12 products that were ordered from Anda from, let's say,
13 2014 on were Schedule -- directly into our pharmacies
14 were Schedule II products.

15 Q. Okay. How would the pharmacy go about
16 placing that order to Anda? I'm just kind of asking
17 for a system, if you can walk me through it, how that
18 Publix pharmacy can order a Schedule II from Anda
19 during that time period?

20 A. So pharmacies during that time period
21 would have ordered Schedule II drugs through an
22 electric controlled substance ordering system.

23 Q. What system was that?

24 A. CSOS.

1 Q. Okay. What would happen -- so now it goes
2 into CSOS.

3 What happens next?

4 A. Sure. Let me take -- let me go back a
5 step.

6 When pharmacies ordered from Anda, they
7 were ordered on a pre-configured cadence or frequency.
8 Those orders would generate in our pharmacy dispensing
9 system Enterprise Rx. Those orders were transmitted
10 via EDI to a CSOS system, a controlled substance
11 ordering system, where they were reviewed and approved
12 by a CSOS administrator and ultimately released for
13 fulfillment to Anda.

14 Q. CSOS is not PIMS, is that right?

15 A. That's correct.

16 Q. So CSOS is not a SOM system at Publix?

17 MS. WHITE: Object to form.

18 BY MR. BADALA:

19 Q. Is that right?

20 MS. WHITE: Oh, sorry. Object to form.

21 BY THE WITNESS:

22 A. CSOS is not necessarily a suspicious order
23 monitoring system, but it does provide Publix with
24 some oversight of C-II orders.

1 BY MR. BADALA:

2 Q. Where these orders would be third parties,
3 these opioid orders, were they ever integrated into a
4 Publix SOM system?

5 MS. WHITE: Object to form.

6 BY THE WITNESS:

7 A. What -- can you explain what you mean by
8 integrated into a suspicious order monitoring system?

9 BY MR. BADALA:

10 Q. Sure.

11 I'm a Publix pharmacy, I order oxycodone
12 from Anda and I order oxycodone from the Publix
13 warehouse. How does the Publix sys- -- SOM system
14 know that I ordered from Publix -- from Anda that
15 controlled substances -- controlled substance as well
16 as from the Publix warehouse that controlled
17 substance?

18 MS. WHITE: Objection to form.

19 BY THE WITNESS:

20 A. When -- when -- how we integrated with
21 Order Insight, Order Insight evaluated all orders that
22 were transmitted to all suppliers.

23 BY MR. BADALA:

24 Q. Okay. So Order Insight, though, was

1 started in 2020, is that right?

2 A. That's right.

3 Q. So prior to that, the SOM systems did not
4 integrate those third-party orders with the Publix
5 warehouse orders, is that right?

6 MS. WHITE: Object to form.

7 BY THE WITNESS:

8 A. That's correct. There was no -- E-Supply
9 Link didn't evaluate orders going to Anda or
10 AmerisourceBergen or McKesson.

11 BY MR. BADALA:

12 Q. Okay. The next one I'm going to show
13 you -- well, maybe I should ask you a question here.
14 Okay.

15 Do you remember speaking with the DEA in
16 2015?

17 MS. WHITE: Object to form.

18 BY THE WITNESS:

19 A. Can you be more specific about the date?
20 I think we talked to them on several occasions.

21 BY MR. BADALA:

22 Q. It looks like sometime -- it looks like
23 it's about July of 2015.

24 A. Yes, I think that aligns with the previous